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June 8, 2007

*Via Electronic Filing*

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: WT Docket Nos. 96-86, 06-150, and 06-169;  
PS Docket No. 06-229  
*Ex Parte Notice*

Dear Ms. Dortch:

On June 7, 2007, Andrew Rein and the undersigned on behalf of Access Spectrum, LLC, and Marshall Pagon and Cheryl Crate, on behalf of Pegasus Communications Corporation, met with Bruce Gottlieb, Legal Advisor to Commissioner Copps. During the meeting, Access Spectrum and Pegasus urged the adoption of Band Plan Proposal Number 3 (or one of its variations: Band Plan Proposal Numbers 4 and 5), consistent with their comments submitted on May 23, 2007 in the above-referenced dockets. The attached slides were discussed during the course of the meeting.

Pursuant to the Commission's rules, this letter is being submitted for inclusion in the public record in the above-referenced proceedings.

Sincerely,

/s/ Ruth Milkman  
Ruth Milkman

Attachment

cc: Bruce Gottlieb

# **Optimizing the 700 MHz Band: The FCC's Further NPRM**

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**June 2007**

# Band Plans 1 and 2 must be rejected

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- Band Plans 1 and 2 would be catastrophic for Public Safety
  - Ensures that there will be **no** interoperability for Public Safety's mission-critical narrowband voice networks in the Canadian and Mexican border regions
  - Saddles Public Safety with the costs of re-tuning its narrowband systems, costs that would be indeterminate given the Canadian and Mexican TV transitions are years away
  - NPSTC Comments (page 24)
    - *“The purpose of using radios that utilize standardized interoperability is to avoid the current reprogramming or capacity challenges when out of region agencies are dispatched to an incident. Under the easement proposal, this critical capability will be lost. Simply put, unless there are permanent narrowband interoperability channels uniformly distributed across states, regions and the country in all of TV channels 63, 64, 68 and 69, there will be no interoperability for agencies in eighteen border states. **This presents an unacceptable risk to the safety of members of the public safety community and the citizens in these border areas.**”*
- Band Plans 1 and 2 would be sub-optimal for commercial purposes
  - Utilize an easement on the adjacent commercial allocation which will drive down the value of the spectrum and invite litigation
  - Create a “Swiss cheese” spectrum plan as the Upper 700 MHz D Blocks will be only 4 MHz paired in 15% of the country
- Careful review of the record indicates that virtually all support for Band Plans 1 or 2 is driven by a preference for particular license or geographic sizes which could easily be accommodated under Band Plans 3, 4 or 5

# Band Plan 3 is the right choice

C 11 MHz		D 5 MHz	A 1	BB 5 MHz	3	NB 3	NB 3	B 1	C 11 MHz		D 5 MHz	A 1	BB 5 MHz	3	NB 3	NB 3	B 1
60	61	62	63	64	65	66	67	68	69								

- Ensures public safety interoperability in the international border regions and provides funding mechanism for re-locating its existing narrowband operations
- Provides the proper incentives for public safety and the A&B Block licenses to cooperate to enable the Commission to auction 32 MHz of commercial broadband spectrum
- Optimizes the band for public-private partnerships whether or not the FCC regulates a public-private partnership
- Facilitates the provision of next-generation wireless broadband, permits the entry of a major, nationwide wireless broadband operator and enables the entry of multiple regional/local wireless broadband operators
  - The Lower 700 MHz contains 24 MHz of unauctioned spectrum and 12 MHz of previously auctioned spectrum in EAs and CMAs which can be used for wireless broadband upon the completion of the DTV transition

# Support for Band Plan 3

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- Public safety – NPSTC, APCO, National Association of Telecommunications Officers and Advisors, National Association of Counties, the US Conference of Mayors, National League of Cities, Missouri State Highway Patrol, City of Independence (MO)
  
- Commercial support
  - The Coalition for 4G in America (DirecTV, Echostar, Google, Intel, Skype, Yahoo)
  - Verizon Wireless
  - Motorola
  - Northrop Grumman
  - WCA, CCIA
  - Upper 700 MHz Licensees (Access Spectrum, Pegasus, Dominion 700, Harbor Guard Band, Radiofone PCS)
  
- Several other entities support Band Plans 4 or 5 or variations thereof . These options are inferior to Band Plan 3 but solve the problems created by Public Safety's narrowband consolidation
  - Ad Hoc Public Interest Spectrum Coalition
  - SpectrumCo, MetroPCS, Leap Wireless, US Cellular, and several rural operators/coalitions/associations
  - Frontline Wireless and Cyren Call
  - M/A-Com
  - NENA

# Other topics

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- License modifications required to implement Band Plan 3
  - The Upper 700 MHz licensees must be granted MHz-pop auction discount vouchers for the spectrum they are giving up to enable the adoption of Band Plan 3
  - The new A Block must have its technical rules harmonized to those of the current C&D Blocks
  - The Commission should endorse the Upper 700 MHz licensees' "re-packing" agreement
    - Any Upper 700 MHz licensee that prefers to retain its current position should be "grandfathered"
      - The grandfathering alternatives are far superior to Band Plans 1 or 2
  
- Two-sided auctions – the "option variant"
  - The Upper 700 MHz licensees have proposed an "option variant" that enables the FCC to rationalize the band while:
    - Guaranteeing the D/E Block licensees a full 6 MHz pair
    - Permitting the individual A Block licensees to retain some flexibility
    - Avoiding any complications related to the software required to conduct a two-sided auction
  - Decision on how to implement could be delegated by the Commission to the Wireless Telecommunications Bureau

# Conclusion

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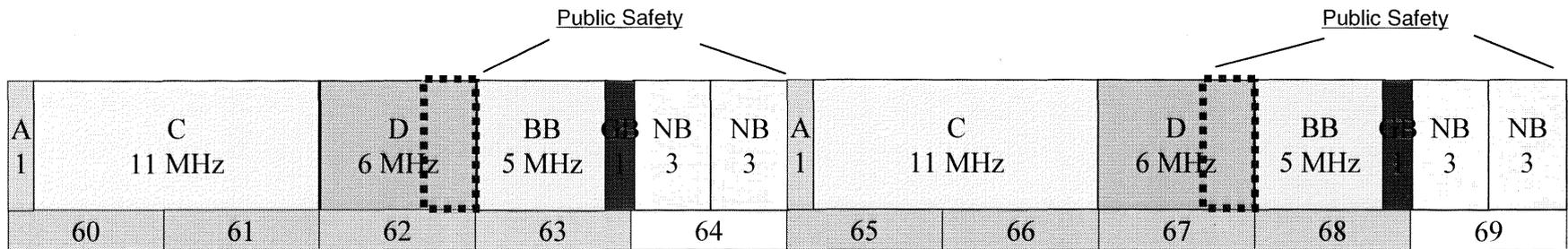
- Band Plan 3 is the right choice
  - It has the backing of Public Safety and a wide variety of commercial interests
  
- Band Plans 1 and 2 must be rejected
  - The consequences to Public Safety would be catastrophic and present an unacceptable risk
  - The negative consequences to the future commercial Upper 700 MHz licensees would be meaningful
  - The presence of alternatives (such as Band Plans 3, 4 or 5) that do solve Public Safety's concerns and allow for optimal use of the commercial allocation speaks to the wisdom of rejecting Band Plans 1 and 2
  - Support for particular sized licenses and geographies can easily be accommodated under Band Plans 3, 4 or 5

# Appendix

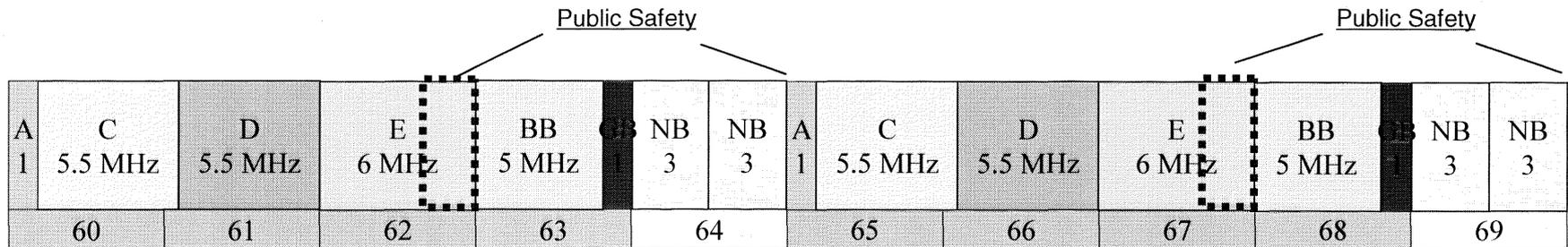
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# Band Plans – Set 1

- Band Plan 1 – C&D licensed in REAGs



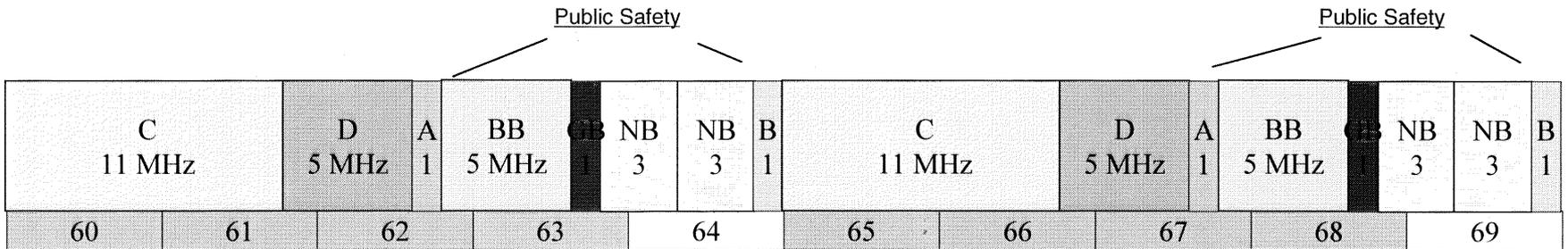
- Band Plan 2 – C&D licensed in REAGs; E licensed in EAs



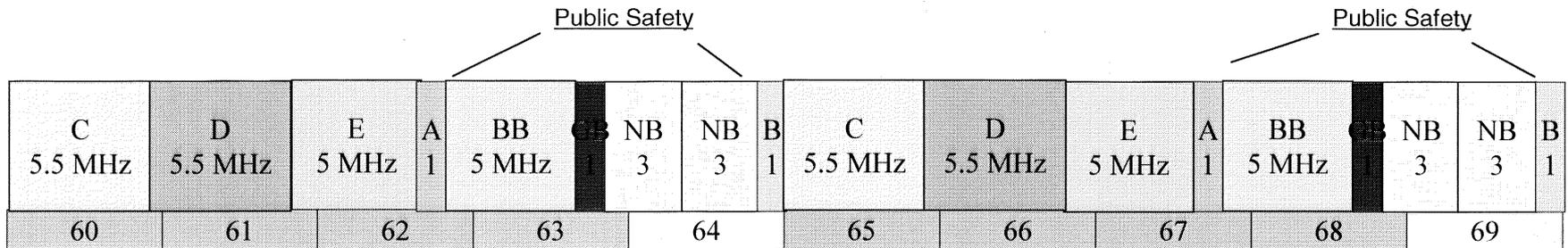
- Note: dotted black line indicates current B Block licensees (2x2 = 4 MHz) which hold licenses covering about 15% of the country leaving a 4 MHz pair or 8 MHz in these areas
- Note: these proposals attempt to solve the international border issues through the use of a “temporary easement” instead of a “permanent shift” as in proposals 3,4 and 5. The “temporary easement” does not solve public safety’s interoperability issues

# Band Plans – Set 2

- Band Plan #3 – Coalition for 4G in America proposes the C be licensed in REAGs; D in MEAs



- Band Plan #4 – C&D licensed in REAGs; E licensed in EAs



- Band Plan #5 – C licensed in REAGs; D&E licensed in EAs

